

REMARKS

The Examiner's Action mailed on August 5, 2008, has been received and its contents carefully considered. A Request for Continued Examination under 37 CFR §1.114 is filed herewith, and reconsideration of the final rejections is requested for at least the following reasons.

In this Response, Applicant has amended claim 1 and added new claims 10 and 11. Claim 1 is the sole independent claim, and claims 1-3 and 9-11 are pending in the application. For at least the following reasons, it is submitted that this application is in condition for allowance.

Claim 1 presently recites: "A packaging container molded of a synthetic resin sheet in a predetermined shape having an opening, comprising: a flange provided at said opening, said flange projecting outwardly from said opening; wherein said flange is provided with regularly formed minute projections or minute recesses arranged in a pattern of at least two rows and at least two columns, *the minute projections or minute recesses being arcuate in vertical cross section*; and an outer peripheral edge of the flange forms a vertically corrugated edge defined by a line crossing the minute projections or minute recesses" (*emphasis added*).

Claims 1-3 and 9 were rejected under 35 USC §102(b) as anticipated by *Vermuelen* (GB 1,363,765). This rejection is respectfully traversed.

Claim 1 has now been amended to recite “the minute projections or minute recesses being arcuate in vertical cross section”, as above. Such a structure is shown in FIG. 4(A) and 4(B) in the present application, but is shown nowhere in *Vermuelen*.

Instead, *Vermuelen* discloses a raised pattern on the flange or rim of the container with (according to page 1, column 2, lines 84-88) “...a series of projections, such as for example part-spherical, part-ellipsoidal, frusto-conical, cylindrical, conical or pyramidal projections, closely spaced ribs, a lattice or criss-cross pattern or knurling” as shown, for example, in FIG. 2 thereof.

Consequently, claim 1 patentably defines over *Vermuelen* and is allowable, together with claims 2, 3 and 9 that depend therefrom.

Claims 1-3 and 9 were also rejected under 35 USC §103(a) as obvious over the combination of *Gentry et al.* (US 2001/0003341 A1) with *Witmer* (US 3,097,780). This rejection is respectfully traversed.

Applicant will show that, firstly, *Gentry et al.* and *Witmer* may not properly be combined, as each teaches away from the other, and secondly, that neither *Gentry et al.* nor *Witmer* shows all elements of claim 1 as amended, whether taken separately or in combination.

Page 3 of the Office Action, as per previous Office Actions, admits that the waves **20** in *Gentry et al.* are not “arranged in a pattern of at least two rows” as recited in claim 1 and then alleges that the bosses (**15, 15a**) or flats (**16, 16a**) of *Witmer* are “arranged in a pattern of at least two rows and at least two columns”.

On pages 3 and 4 thereof, the Office Action now alleges that it would have been obvious to have added rows of projections/recesses as taught by *Witmer* to an inner peripheral location in the structure of *Gentry et al.*

The Office Action further states on page 5 thereof, responding to Applicant’s arguments filed July 10, 2008, that *Gentry et al.* and *Witmer* are applied differently than before, explicitly asserting that the corrugations of *Gentry et al.* are provided at the outer peripheral edge but that those of *Witmer* are not.

The Office Action then reasserts that “the examiner doesn’t find that an accordion like rim with the capability of flattening is inconsistent with a rim that also has corrugations to provide bending resistance” and that “The addition of bending resistance doesn’t conflict with the relieving of hoop stress at the flanged rim”. Applicant respectfully disagrees, as discussed below in greater detail.

Gentry et al. describes a container **10** with a flexible rim **16**, which “forms periodic waves **20**, i.e., undulations or ridges, encompassing the upper portion **18** of the side wall **14**” (from ¶[0019]).

An object of *Gentry et al.* is to provide a flexible rim ([0004]) to prevent cracking from occurring due to tensile loads exerted onto the flange when food products are loaded into a disposable plastic container ([0002] and [0003]) and the container is handled by a consumer.

Therefore, *Gentry et al.* discloses a rim having waves, which act like an accordion and increases the perimeter, more particularly allowing the rim to flatten, thereby reducing the hoop stress. By reducing the hoop stress, the tendency of the rim to crack or break is minimized ([0006]).

In contrast, *Witmer* discloses a one piece paper plate 10 in which "Extending outwardly and slightly upwardly from the upper edge of the wall 12 is a rim generally designated 13 which terminates at its outer free edge in a downturned skirt 14" (column 2, lines 8-11) and where concentric circles of staggered bosses 15 or 15a and flats 16 or 16a respectively are provided in the rim 13, but not in the downturned skirt 14. The bosses (15, 15a) and flats (16, 16a) improve the rigidity of the centre portion of the rim 13, but if the edge of the rim, i.e. the downturned skirt 14 included such bosses (15, 15a) and flats (16, 16a), then the rim would not be rigid.

An object of *Witmer* is to provide a paper plate composed of thin fibreboard or paperboard, which has an improved rigidity to prevent bending at a grasped edge and to prevent food products on the plate from spilling over the edge.

Witmer therefore discloses a paper plate constructed such that the plate is not easily bent, having a rim formed with projections regularly arranged in a staggered relationship as described above.

Thus, whilst the waves **20** of *Gentry et al.* are provided to “allow the rim to flatten” (e.g., ¶[0006]), the bosses (**15, 15a**) and flats (**16, 16a**) of *Witmer* are provided “to improve the bending resistance” (e.g., column 2, lines 12-26).

Applicant respectfully submits that combining the references as now suggested, that is to say employing the bosses (**15, 15a**) or flats (**16, 16a**) of *Witmer* in addition to the waves **20** (i.e. the corrugated edge) of *Gentry et al.*, but at in inner peripheral location would result in a plate that had a rim (or flange) that was flexible at the edge but more rigid at an inner peripheral location.

In fact, it is likely that the structure shown in *Witmer* would make it very difficult to flatten the rim, precisely because the bosses (**15, 15a**) and flats (**16, 16a**) of *Witmer* are in a staggered relationship from one row to another, that is “the bosses are staggered in a radial direction so that the bosses in every other circle are in radial alignment” (*Witmer*, column 2, lines 37-38). Hence adding staggered bosses (**15, 15a**) or flats (**16, 16a**) in the manner of *Witmer* at in inner peripheral location with respect to the waves **20** of *Gentry et al.* would tend to prevent the waves **20** in the rim from flattening, whereas one of the objects of *Gentry et al.* is to “allow the rim to flatten”.

Consequently, to apply the rows of projections/recesses as taught by *Witmer* to an inner peripheral location in the structure of *Gentry et al.* teaches away from *Gentry et al.*, because it is an object of *Gentry et al.* to “allow the rim to flatten” to relieve stress, whereas the more rigid rows of projections/recesses as taught by *Witmer* would make it more difficult for the rim to flatten, even if they were to be provided only at an inner peripheral location in the structure of *Gentry et al.*

Thus, whether or not increasing bending resistance is compatible with reducing stress, the staggered bosses (15, 15a) and flats (16, 16a) of *Witmer* still teach away from *Gentry et al.*, so that such a combination would be improper.

Moreover, as quoted above, the present Office Action states that the reason to combine the references is “to add rigidity to the flange, eliminate or reduce flexing of the flange and resist bending of the flange”, which again teaches away from *Gentry et al.*, which has as an object to “allow the rim to flatten”.

In addition, claim 1 has now been amended to recite “the minute projections or minute recesses being arcuate in vertical cross section”. Such a structure is shown in FIG. 4(A) and 4(B) in the present application, but is shown nowhere in either *Gentry et al.* or *Witmer*.

Instead, *Gentry et al.* shows merely waves 20, e.g. in FIG. 1 thereof, whereas *Witmer* shows rectangular bosses 15 and flats 16 in FIG. 1 and 2 thereof and circular bosses 15a and flats 16a in FIG. 5 thereof.

Consequently, claim 1 patentably defines over *Gentry et al.* and *Witmer*, whether taken separately or in combination, and is allowable, together with claims 2, 3 and 9 that depend therefrom.

Claims 10 and 11 also depend from claim 1, and are therefore allowable for at least the reasons that claim 1 is allowable.

In addition, claim 10 recites "wherein said flange is provided with regularly formed minute projections *and* minute recesses, *both* the minute projections and the minute recesses being arcuate in vertical cross section" (*emphasis added*), whereas *Vermuelen* shows only projections.

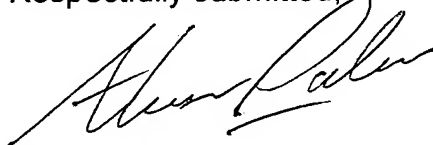
Further, claim 11 recites a structure of a lid, whereas none of *Vermuelen*, *Gentry et al.* and *Witmer* discloses a lid.

It is submitted that this application is in condition for allowance. Such action and the passing of this case to issue are requested.

Should the Examiner feel that a conference would help to expedite the prosecution of this application, the Examiner is hereby invited to contact the undersigned counsel to arrange for such an interview.

Should any remittance be required, the Commissioner is hereby authorized to charge the fee to our Deposit Account No. 18-0002, and advise us accordingly.

Respectfully submitted,



November 3, 2008
Date

Alun L. Palmer – Registration No. 47,838
RABIN & BERDO, PC – Customer No. 23995
Facsimile: 202-408-0924
Telephone: 202-371-8976

ALP/pq